EXHIBIT 2

FILED UNDER SEAL

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14   UNITED STATES DISTRICT COURT

15   NORTHERN DISTRICT OF CALIFORNIA

16   SAN FRANCISCO DIVISION

17
   GOOGLE LLC,
18
                         Plaintiff
19
               v.   Case No. 3:20-cv-06754-WHA
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   SONOS, INC.,
21
                         Defendant.
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23
   GOOGLE LLC'S EIGHTH SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
24 **PLAINTIFF SONOS, INC.'S FIRST SET OF FACT DISCOVERY INTERROGATORIES**
   (NO. 18)
25
          Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendant Google LLC
26
   ("Google") hereby objects and responds to Plaintiff Sonos, Inc.'s ("Sonos") First Set of Fact
27
   Discovery Interrogatories to Defendant ("Interrogatories").   Google responds to these
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1   Interrogatories based on its current understanding and the information reasonably available to

2   Google at the present time. Google reserves the right to supplement these responses if and when

3   additional information becomes available.

GENERAL OBJECTIONS AND RESPONSES

5   1.   These responses are made only for the purposes of discovery in this action. Each

6   response is subject to all appropriate objections as to competence, relevance, materiality, and any

7   and all other objections and grounds that would require the exclusion of any information,

8   documents, or statements contained in the responses if such information, documents, or statements

9   were offered in court. Google expressly reserves all such objections and may interpose them at the

10 time of trial or at any other time.

11 2.   Google reserves all objections as to the admissibility at trial of any information or

12 documents identified in its responses to these Interrogatories. By identifying any document or

13 supplying any information, Google does not admit that such information or document is relevant to

14 or admissible in this litigation. Google reserves the right to object to further inquiry with respect to

15 any subject matter.

16 3.   Google objects to the interrogatories, and to the definitions, to the extent that they

17 purport to impose any obligations upon Google beyond the Federal Rules of Civil Procedure and

18 the Local Rules of the United States District Court for the Northern District of California.

19 4.   Google objects to the definition of "Defendant," "Google," "You," or "Your" on the

20 grounds that the definitions are overly broad, unduly burdensome, and vague, including but not

21 limited to the extent that they include: any Google parent, subsidiary, division, or related company;

22 any business entity controlled by or operated on behalf thereof; any predecessors thereof; and any

23 and all agents, directors, owners, officers, attorneys, employees, representatives, subcontracts,

24 and/or any person acting on its behalf.

25 5.   Google objects to the definition of "Accused Cast-Enabled App(s)" on the grounds

26 that the definition is overly broad, unduly burdensome, and vague, including but not limited to the

27 extent that it includes: any Google Cast-enabled app other than the YouTube Music app, Google

28 Play Music app, YouTube app, Google Podcasts app, and YouTube TV app, and any third-party

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1 Cast-enabled app that allows a user to "cast" to an Accused Cast-Enabled Media Player (including

2 but not limited to the Spotify app), and any Cast-enabled software (e.g., firmware and/or Cast-

3 enabled apps) executable on an Accused Cast-Enabled Display that enables a user to "[m]ove media

4 from one cast device to another," either collectively or individually. Google will respond with

5 respect to the YouTube Music app, Google Play Music app, YouTube app, Google Podcasts app,

6 and YouTube TV app.

7   6.   Google objects to the definition of "Accused Google Product(s)" to the extent it

8 includes Sonos's definition of the term "Accused Cast-Enabled App(s)."

9   7.   Google objects to the definition of "Accused Google Server[s]" on the grounds that

10 the definition is overly broad, unduly burdensome, and vague, including but not limited to the extent

11 that it purports to include: any server that hosts at least one of the Accused Cast-Enabled App(s) for

12 download, any server that facilitates casting from Chromecast-enabled apps to Accused Cast-

13 Enabled Media Player(s), any server that facilitates moving media from one cast device to another,"

14 and any server that, in response to user input at any Accused Cast-Enabled App, facilitates delivering

15 media to an Accused Cast-Enabled Media Player (including but not limited to any Cloud Content

16 Delivery Network (CDN) server), either collectively or individually. Google will respond with

17 respect to the servers specifically accused in Sonos's infringement contentions.

18   8.   Google objects to the instructions regarding "identify," "describe," or "identity" in

19 the context of a person on the grounds that the instructions are overly broad, unduly burdensome,

20 and vague, including but not limited to the extent that they require inclusion of: the person's present

21 or last known home address, business and e-mail addresses, and respective phone numbers; present

22 or last known place of employment and position; and his or her connection to the subject matter of

23 the interrogatory.

24   9.   Google objects to the instructions to "identify," "describe," or specify the "identity"

25 in the context of a person who is a past or present director, officer, employee, agent, or representative

26 of Google on the grounds that the instructions are overly broad, unduly burdensome, and vague,

27 including but not limited to the extent that they require specification of: all positions or employments

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1 held by that person with Google, and the dates between which each such position or employment

2 was held.

3   10.   Google objects to the instructions to "identify," "describe," or specify the "identity"

4 in the context of an entity on the grounds that the instructions are overly broad, unduly burdensome,

5 and vague, including but not limited to the extent that they require specification of: the entity's place

6 of incorporation or other business organization; it's principal places of business; its present or last

7 known mailing and physical address(es) and e-mail and website addresses; its present or last known

8 phone number; the type of entity or organization, its date and place of formation and any place(s) in

9 which it is registered to conduct business; its registered agent; and the identity of all individuals

10 employed by or acting for it at any time who have knowledge of the matter with respect to which

11 the entity is identified.

12   11.   Google objects to the instructions to "identify," "describe," or specify the "identity"

13 in the context of a document on the grounds that the instructions are overly broad, unduly

14 burdensome, and vague, including but not limited to the extent that they require specification of: the

15 date it was authored, sent, and/or received; the identity of the author of the document; the identity

16 of any recipient of the document; and the identity of the custodian of the document.

17   12.   Google objects to the instructions to "identify," "describe," or specify the "identity"

18 in the context of a communication on the grounds that the instructions are overly broad, unduly

19 burdensome, and vague, including but not limited to the extent that they require specification of: the

20 date it was authored, sent, and/or received; the identity of the author of the document; the identity

21 of any recipient of the document; and the identity of the custodian of the document. Google further

22 objects to the instructions regarding "identify," "describe," or "identity" in the context of a

23 communication to the extent that they suggest Google is required to search and produce

24 electronically stored information (ESI) before Sonos has shown good cause for ESI discovery, and

25 the parties have agreed on a procedure for doing so in accordance with the Court's Standing Order.

26   13.   Google objects to the instructions to "identify," "describe," or specify the "identity"

27 in the context of a thing on the grounds that the instructions are overly broad, unduly burdensome,

28 and vague, including but not limited to the extent that they require specification of: its physical

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1   particulars; the day on which it was made; the identity of the persons who made it; the identity of

2   the persons who asked that it be made; its present condition; and its present location.

3   14.   Google objects to the instructions to "state all facts" on the grounds that the

4   instructions are is overly broad, unduly burdensome, and vague, including but not limited to the

5   extent that it requires specification of: the identification of any person or entity having knowledge

6   of any such fact, including the last known address and phone number and the identity of any

7   document, communication, or thing that refers, relates, or evidences any such fact.

8   15.   Google objects to each interrogatory to the extent it seeks information protected by

9   the attorney-client privilege or the work product doctrine or that is otherwise privileged or protected

10   from discovery.

11   16.   Google objects to each interrogatory to the extent that it seeks information that is not

12   relevant to any claim or defense of any party or to the subject matter of this action, and is thus not

13   proportional to the needs of the case.

14   17.   Google objects to each interrogatory to the extent it is compound and contains

15   multiple subparts.

16   18.   Google objects to each interrogatory to the extent it is overbroad, unduly

17   burdensome, vague, and/or ambiguous.

18   19.   Google objects to each interrogatory to the extent it seeks information that does not

19   already exist or that is not in Google's possession, custody, or control.

20   20.   Google objects to each interrogatory to the extent it requires Google to provide

21   information beyond what is available to Google at present from a reasonable search of its own files

22   likely to contain relevant or responsive documents and from a reasonable inquiry of its present

23   employees.

24   21.   Google objects to each interrogatory to the extent it seeks confidential or proprietary

25   information, including without limitation, confidential business information, proprietary and/or

26   competitively sensitive information, or trade secrets. Subject to its other General Objections, and

27   to any specific objections set forth below, Google will only provide relevant information in a manner

28   consistent with a Protective Order entered by the Court in this matter.

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22.   Google objects to each interrogatory to the extent it is unlimited in time or otherwise not limited to a timeframe relevant to this litigation, and is therefore burdensome, oppressive, overly broad, and not proportional to the needs of the case.

23.   Google objects to each interrogatory to the extent it seeks a legal conclusion or expert testimony.

24.   Google objects to each interrogatory to the extent it seeks information that is publicly available and therefore as accessible to Sonos as to Google.

25.   Google objects to each interrogatory to the extent that it is premature. Discovery is ongoing, and Google has not yet completed its investigation of the matters at issue in this action. Google reserves the right to modify, supplement, change or amend its responses after the Court has issued its claim construction order, and once Google has conducted the necessary discovery and investigation.

26.   Google's responses are not to be construed as an admission that any of the requested information exists, that any information is admissible, relevant or proportional to the needs of the case, or that any contention or assumption contained in the interrogatories, whether implicit or explicit, is correct.

OBJECTIONS AND RESPONSES TO FACT DISCOVERY INTERROGATORIES

INTERROGATORY NO. 18:

If any Accused Instrumentality has been or will be designed, redesigned, altered, modified or changed in an effort to avoid infringement of any Asserted Claim, describe in detail the nature of that design, redesign, alteration, modification or change, explain in detail how such design, redesign, alteration, modification or change results in non-infringement of each Asserted Claim, including but not limited to identifying the specific claim limitation or limitations not practiced because of the change and state when the change was implemented in terms of both the date of the change and the version of the Accused Instrumentality that includes the change, identify all documents concerning that design, redesign, alteration, modification or change, and identify the person or persons most knowledgeable about the design, redesign, alteration, modification or change.

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1   **OBJECTIONS:** Google incorporates by reference all of its General Objections as if fully

2   set forth herein. Google objects to the characterization of this interrogatory as a single interrogatory

3   given that it contains multiple discrete subparts under Fed. R. Civ. P. 33(a)(1). Google objects to

4   this interrogatory on the grounds that it is vague, ambiguous, unclear as to information sought, and

5   lacking sufficient particularity to permit Google to reasonably prepare a response with respect to the

6   undefined terms "designed, redesigned, altered, modified or changed," implemented," "version,"

7   "design, redesign, alteration, modification or change," and "most knowledgeable." Google further

8   objects to this interrogatory to the extent that it assumes the existence of hypothetical facts that are

9   incorrect or unknown to Google. Google also objects to this interrogatory as overbroad,

10   burdensome, and not proportional to the needs of the case, including to the extent it seeks "all

11   documents" concerning any "design, redesign, alteration, modification or change." Google

12   additionally objects to this interrogatory to the extent it seeks communications and information

13   protected from disclosure by the attorney client privilege and/or attorney work product doctrine.

14   Google further objects to this interrogatory to the extent it seeks confidential and/or proprietary

15   business information. Google also objects to this interrogatory on the grounds that it seeks

16   information that is obtainable through less burdensome and more convenient forms of discovery.

17   Google also objects to this interrogatory to the extent that it premature seeks expert discovery,

18   opinion, and/or testimony.

19   Google further objects to this interrogatory to the extent that it purports to seek ESI before

20   Sonos has shown good cause for such ESI and before the parties have agreed on a procedure for

21   doing so in accordance with the Court's OGP.

22   **RESPONSE:** Subject to and without waiving the foregoing General and Specific

23   objections, Google responds, as follows:

24   Google objects to this interrogatory on the grounds that it seeks information protected by the

25   attorney-client privilege and/or the attorney work product doctrine.

26   **FIRST SUPPLEMENTAL RESPONSE:**

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1   Subject to and without waiving the foregoing General and Specific objections, Google

2   responds, as follows:[1]

3   **'885 Patent & '966 Patent**

4   Google incorporates by reference the opinions disclosed in Dr. Schonfeld's Opening Expert

5   Report, Dr. Schonfeld's Rebuttal Report, and Dr. Schonfeld's deposition testimony regarding non-

6   infringing alternatives.

7   *Non-Infringing Alternative #1 – Google's products*

8   Google's products do not infringe the asserted claims of the '885 and '966 patents.

9   Accordingly, the accused Google products are themselves non-infringing alternatives to the asserted

10   claims.

11   *Non-Infringing Alternative #2 – no standalone mode*

12   A non-infringing alternative is an implementation in which when the accused "standalone"

13   speaker is added to a target group, and it matches the music (or silence) of the target group. Pursuant

14   to FRCP 33(d), Google also refers Sonos to the source code files made available on the Quinn

15   Emanuel LA Office source code review computer, and for which excerpts were provided to counsel

16   for Sonos on September 1, 2022. See, e.g., SC-GOOG-SONOSNDCA-001598 - SC-GOOG-

17   SONOSNDCA-001682.

18   Claim 1 of the '885 patent is exemplary. Claim 1 includes limitations that require the zone

19   player to be added to two different zone scenes: "(i) receiving, from a network device over a data

20   network, a first indication that the first zone player has been added to a first zone scene comprising

21   a first predefined grouping of zone players including at least the first zone player and a second zone

22   player that are to be configured for synchronous playback of media when the first zone scene is

23   invoked" and "(ii) receiving, from the network device over the data network, a second indication

24   that the first zone player has been added to a second zone scene comprising a second predefined

25   grouping of zone players including at least the first zone player and a third zone player that are to

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[1]   While Google provides estimates for implementing the non-infringing alternatives, these
28   approximate time frames may be shorter based on the number of engineers involved.

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1 be configured for synchronous playback of media when the second zone scene is invoked, wherein

2 the second zone player is different than the third zone player." The claim then requires that "after

3 receiving the first and second indications, continuing to operate in the standalone mode until a given

4 one of the first and second zone scenes has been selected for invocation." In other words, the claim

5 requires the zone player that was playing back music individually to be added to two different zone

6 scenes, but to continue to operate in a "standalone mode" until one of the two zone scenes is

7 "invoked."

8   With this non-infringing alternative, infringement is avoided by having the "standalone"

9 speaker that is added to two zone scenes not continue to operate in "standalone" mode after it has

10 been added to those zone scenes. Instead, the accused "standalone" speaker after being added to a

11 zone scene may match the music (or silence) of the target zone scene. Indeed, currently, when a

12 single speaker is playing music and a group is playing music and the single speaker is added to the

13 group, the speaker will begin playing the music that the group was playing. Having this same

14 behavior for the situation where a speaker is playing music and joined to a group that is not playing

15 music would harmonize the behavior in these two situations.

16   In this alternative, the accused zone player would never "continue to operate in standalone

17 mode" after receiving the indication that it "has been added to a first zone scene." Rather, the

18 accused zone player would immediately adopt the behavior of the accused "zone scene" to which it

19 was added. Therefore, the accused zone player would no longer be "configured to play back media

20 individually" or, equivalently, remain in the accused "standalone mode."

21   All asserted claims of the '885 and '966 patents require the "standalone mode" functionality

22 discussed above, and therefore this non-infringing alternative applies to all asserted claims. For

23 example, in claim 1 of the '966 patent, that claim requires that a "first zone player is operating in a

24 standalone mode," and that after a "first request," a "second request," and a "third request," that

25 "based on the third request, causing the first zone player to transition from operating in the

26 standalone mode to operating in accordance with the first predefined grouping of zone players."

27 Accordingly, the '966 patent claims, which each require these same steps, are subject to the

28 alternative. This alternative would have been straightforward and taken minimal time, which

1 reflects its ready availability. Google estimates that it would need one Level-6 software engineer

2 working for one day to implement this alternative.

3   Google has publicly released a new version of its source code through software updates to

4 25% of the accused Google products with a display, and plans to continue rolling out the change to

5 the remaining accused products through December 2022. Google reserves the right to supplement

6 this interrogatory response, including when and if it publicly releases a new version of source code

7 relevant to this non-infringing alternative.

8   *Non-Infringing Alternative #3 - no overlapping groups*

9   A non-infringing alternative is an implementation in which a speaker that is already a

10 member of one group will be forced out of this (first) group when a user attempts to add the speaker

11 to a new (second) group. In other words, with this non-infringing alternative, no speaker can be a

12 member of more than one group at the same time.

13   This is a requirement of the asserted claims. For example, claim 1 of the '885 patent requires

14 that the zone player "receiv[es], from a network device over a data network, a first indication that

15 the first zone player has been added to a first zone scene" and that the zone player "receiv[es], from

16 the network device over the data network, a second indication that the first zone player has been

17 added to a second zone scene." "[A]fter receiving the first and second indications, [the zone player]

18 continu[es] to operate in the standalone mode until a given one of the first and second zone scenes

19 has been selected for invocation." Similarly, claim 1 of the '966 patent requires a "first request to

20 create a first zone scene comprising a first predefined grouping of zone players including at least

21 the first zone player" and a "second request to create a second zone scene comprising a second

22 predefined grouping of zone players including at least the first zone player." Claim 1 of the '966

23 patent also requires "while displaying the representation of the first zone scene and the

24 representation of the second zone scene, receiving a third request to invoke the first zone scene."

25 These representative claims (for this limited purpose) show that the asserted claims require the

26 overlapping groups described above.

27   Sonos's expert Dr. Almeroth has opined that this is the case. For example, Dr. Almeroth

28 opined that exemplary claim 1 of the '885 Patent recites that the "first zone player" has the capability

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1 to be added to both a "first zone scene" and a "second zone scene" that are then both available to be

2 "selected for invocation." See e.g., Almeroth Rebuttal Report at ¶299. Dr. Almeroth repeatedly

3 opined that the claimed zone scenes have "overlapping" members. E.g., Almeroth Op. Rep. ¶304

4 ("As explained above, the claimed 'zone scene' technology enables users of the Accused Google

5 Players to create and save predefined groups (referred to by Google as 'speaker groups' or 'static

6 groups') of Accused Google Players, including groups that have one or more overlapping Accused

7 Google Players, where each such group can later be launched at any time to cause the Accused

8 Google Players in the previously-saved, predefined group to become configured to play back audio

9 in synchrony."); ¶¶75, 86, 184, 304, 306, 315, 317, 334; Almeroth Reb. Rep. ¶336 ("Turning to

10 claim 1's additional requirement that the 'first zone player' be programmed with the capability to

11 be a member of two different 'zone scenes' comprising overlapping 'predefined' groups that are

12 both in existence at the same time such that they are both available to be 'selected for invocation,' .

13 . ."); ¶337 ("this scenario also does not meet the additional requirement that there be two overlapping

14 groups that are both in existence and available for selection at the same time"); ¶403 ("However,

15 limitation 1.7 requires much more than just 'overlapping groups' – it requires the capability to

16 receive 'indications' that the 'first zone player' 'has been added' to two different 'zone scenes'

17 comprising customized, pre-saved groups of 'zone players' that are then both in existence at the

18 same time and available to be 'selected for invocation' by a user so that one of the 'zone scenes'

19 can later be 'invoked' on demand."). The Court has also recognized this requirement. Dkt. 309 at

20 12 (the Court finding that "claim 1 recites a specific kind of device — a 'zone player' — that can

21 be readily placed in pre-saved groups with other zone players to allow synchronous playback on

22 demand," and "[t]he claimed ability to customize and save overlapping speaker groups and easily

23 control group playback represents a clear technological improvement over the 'conventional multi-

24 zone audio system,' which, as the specification explained, presents significant technological and

25 physical obstacles to forming speaker groups").

26   This claim language is consistent with the Asserted Patents' disclosure that a "zone player"

27 can simultaneously be a member of multiple different groups that are predefined and pre-saved as

28 part of multiple different "zones scenes" in existence at the same time, and provides yet another

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1   point of distinction between the claimed "zone scene" technology and prior art grouping technology,

2   which only permitted a "zone player" or "conventional" audio player to be a member of one single

3   group at any given time. See id. (Almeroth reports quoting patent disclosure).

4   This alternative would have been straightforward and taken minimal time, which reflects its

5   ready availability. Google estimates that it would need one Level-6 software engineer working for

6   one day to implement this alternative.

7   **'033 Patent**

8   ***Non-Infringing Alternative #1 – Google's products***

9   Google's products do not infringe the '033 patent. Accordingly, the accused Google

10   products are themselves non-infringing alternatives to the asserted claims of the '033 patent.

11   ***Non-Infringing Alternative #2 – Playback Of A Local Queue On The Sender Device***

12   All asserted claims of the '033 patent recite a computing device that is "configured for

13   playback of a remote playback queue provided by a cloud-based computing system associated with

14   a cloud-based media service." Sonos's infringement contentions are vague and do not adequately

15   disclose its theory of how Sonos contends Google satisfies this limitation. Google also disagrees

16   with Sonos that its accused products satisfy this limitation.

17   Nevertheless, to the extent Google's accused products are found not to already do so, a non-

18   infringing alternative is to have the sender device maintain the queue locally on the sender device

19   and configure the sender device to playback the local queue. In this non-infringing alternative, the

20   sender device can include a queue data structure that stores the list of videos selected for playback

21   and the sender device would play videos directly from that local queue. In other words, with this

22   non-infringing alternative, the accused sender devices would not satisfy the above limitation because

23   the sender devices would not be configured to playback "a remote playback queue provided by a

24   cloud-based computing system associated with a cloud-based media service."

25   This alternative would have been straightforward and taken minimal time, which reflects its

26   ready availability. Google estimates that it would need three Level-4 to Level-5 software engineers

27   working for approximately less than three months to implement this alternative.

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1 *Non-Infringing Alternative #3 – Cloud Service, Not Playback Device, Communicates With*

2 *Cloud Servers To Identify the Next One Or More Media Items In The Remote Playback Queue*

3   All asserted claims of the '033 patent recite a computing device that transmits "an instruction

4 for the at least one given playback device to take over responsibility for playback of the remote

5 playback queue from the computing device, wherein the instruction configures the at least one given

6 playback device to (i) communicate with the cloud-based computing system in order to obtain data

7 identifying a next one or more media items that are in the remote playback queue, (ii) use the

8 obtained data to retrieve at least one media item in the remote playback queue from the cloud-based

9 media service; and (iii) play back the retrieved at least one media item."

10   Sonos's infringement contentions are vague and do not adequately disclose its theory of how

11 any instruction from the sender device configures a playback device to perform items (i)-(iii) of this

12 limitation.   Sonos appears to allege that this limitation is met because a receiver device may receive

13 a setPlaylist message from an MDx server and then (i) send a GetWatchNext request that, according

14 to Sonos, returns a GetWatchNext response identifying a next one or more media items that are in

15 the remote playback queue, and (ii) send a GetPlayer request that, according to Sonos, uses the

16 information in the GetWatchNext response to obtain data to retrieve a media item in the cloud queue.

17 '033 Infringement Contentions at Limitation 1.7.   Google does not admit that this functionality

18 satisfies the claimed limitation or that it fully and accurately describes the functionality of the

19 accused products.

20   Nevertheless, a non-infringing alternative is for the receiver device to not send a

21 GetWatchNext message or getPlayer requests. Instead, in Alternative 32 the receiver device would

22 send a request to a Onesie agent. The Onesie agent would send the GetWatchNext request and

23 GetPlayer request, and then stream the media data from the Onesie agent to the receiver device. In

24 other words, in Alternative #3 the receiver device does not "obtain data identifying a next one or

25 more media items that are in the remote playback queue," and does not "use the obtained data to

26 retrieve at least one media item in the remote playback queue from the cloud-based media service."

27   Google has implemented Onesie for many receiver devices and is currently working on a

28 feature called Streaming Watch which can allow the Onesie agent to make the GetWatchNext and

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1 GetPlayer calls. See, e.g., GOOG-SONOSNDCA-00071671; GOOG-SONOSNDCA-00070863;

2 GOOG-SONOSNDCA-00073429; GOOG-SONOSNDCA-00073577.   Onesie and Streaming

3 watch are discussed in further detail in the opening and rebuttal reports of Dr. Bhattacharjee, which

4 are incorporated herein by reference.

5 <center>*Non-Infringing Alternative #4 – Continue Playback*</center>

6 All of the asserted claims require "transitioning from i) the first mode in which the

7 computing device is configured for playback of the remote playback queue to ii) a second mode in

8 which the computing device is configured to control the at least one given playback device's

9 playback of the remote playback queue and the computing device is no longer configured for

10 playback of the remote playback queue."

11 To the extent Google's accused products are found not to already do so, a non-infringing

12 alternative that Google would have had at the time of the alleged first infringement is continuing

13 playback at the control device after playback has been transferred to the playback device. The

14 playback can be continued with only the video alone (and the audio muted). After transfer occurs,

15 a "set and forget" operation could turn the receiver into a playback device without direct control

16 from the YT app on the phone or tablet. Video and audio would be playing back on the screen, and

17 video would be playing on the phone/tablet. The user could retain control of the receiver through

18 other means such as Google Assistant or Google Home. Because the playback would not be stopped

19 on the control device as part of the transfer step, this alternative does not infringe the Asserted

20 Claims.

21 End users would have found this alternative to be an acceptable alternative. This would thus

22 provide additional functionality that the user may choose to take advantage of or may choose to

23 ignore if they prefer. In fact, users may prefer this method. For instance, if the playback of a video

24 continues on the control device after transferring playback is complete, the user would have the

25 benefit of viewing the video both on their phone and on the television.

26 This alternative would have been straightforward and taken minimal time, which reflects its

27 ready availability. Google estimates that the modification to all the relevant accused products after

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<center>-14-</center>

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1 they were launched would have required at most 2-3 engineers working full time for a few weeks,

2 either a Level 4 or Level 5.

3 *Non-Infringing Alternative #5 – The YouTube Remote Prior Art*

4 Sonos has yet to articulate the reasons why it contends the YouTube Remote prior art does

5 not satisfy the claims of the '033 patent. To the extent Sonos argues that the YouTube Remote prior

6 art does not satisfy the claims of the '033 patent, the YouTube Remote prior art would also be a

7 non-infringing alternative for at least those reasons. The Court also found that the YouTube Remote

8 prior art in combination with the YouTube Remote patent rendered claim 13 of the '615 patent

9 invalid. Dkt. 316. That prior art combination is also prior art to the '033 patent and is therefore an

10 available non-infringing alternative.

11 **'615 Patent**

12 All of the asserted claims of the '615 patent require a "local playback queue" on the

13 particular playback device. The accused Google products are themselves non-infringing alternatives

14 to the Asserted Claims because the Court's Order Granting Partial Summary Judgment as to the

15 '615 patent, Dkt. No. 316, expressly found that the accused products do not include a "local playback

16 queue." Thus, none of the accused products practice the claims of the '615 patent.

17 As noted above, the Court also found that the combination of the YouTube Remote prior art

18 with the YouTube Remote patent, see id., invalidated claim 13 of the '615 patent. As such, that

19 prior art combination is an available non-infringing alternative.

20 Google also incorporates by reference the non-infringing alternatives identified and

21 discussed in the opening and rebuttal reports of Dr. Bhattacharjee.

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1 DATED: November 21, 2022

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2   The undersigned hereby certifies that all counsel of record who have consented to electronic

3   service are being served with a copy of this document via email on November 21, 2022.

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                                                     /s/ Jocelyn Ma
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